



THE STATE
of **ALASKA**

GOVERNOR MICHAEL J. DUNLEAVY

Department of Natural Resources

DIVISION OF MINING, LAND & WATER

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State of Alaska Department of Natural Resources Notice of Public Scoping for Possible Revisions of DNR Regulations Under Administrative Order 266

Conveyance of Beds of Certain Navigable Waters to Municipalities

The Alaska Department of Natural Resources (DNR) is considering revising regulations regarding Public Easements, 11 AAC 51. This is being done in response to concerns raised by certain Alaskan Boroughs and Municipalities that existing regulations require DNR to retain the beds of waters in state ownership. (11 AAC 51.045(d)(2)) While the intent of this regulation is to insure public ownership of the beds of navigable waters, this regulation also prevents conveyance to boroughs municipalities of navigable waters, including certain former filled beds of waterbodies that no longer contain waters that were navigable in fact. For more information or a copy of the existing regulations and statutes, go to <http://dnr.alaska.gov/mlw/hottopics>, or contact Joe Joyner at Alaska Department of Natural Resources, 550 West 7th Avenue, Suite 1070, Anchorage, AK 99501-3577, joe.joyner@alaska.gov, or (907) 269-8511.

Specifically, DNR is seeking public input regarding possible revision of these regulations related to requirements for the retention of fee ownership of the beds of navigable waters in certain circumstances. For instance, public works or flood control structures may have permanently altered the course or location of a navigable waterbody. In these cases, the segregated waterway may be dry or filled and no longer navigable in fact, and the segregated or filled lands may be of use to the borough or municipality in which it is located. While state statutes and case law allow the conveyance of the beds of navigable waters, subject to the reservation of public access and the public interest doctrine, this subject regulation prevents DNR from making any such conveyance. DNR is asking members of the public and industry for their input regarding suggestions and proposals which would assist the department in its efforts to consider revisions to these regulations related to retaining fee ownership of the beds of navigable waters.

The purpose of this notice is to ask the public for their ideas and suggestions for these regulations developments *before* the department undertakes the task of drafting any specific proposed regulations for public review. These ideas and suggestions can be as broad or as narrow, or as general or as specific, as a submitter may wish.

The department is not currently proposing any *specific* regulations at this time. There are no draft regulations to review. The department is soliciting feedback and comments from the public on whether or how they could revise regulatory framework related to the retention of the beds of certain navigable waters before the formal process of drafting any proposed regulations begins.

Written comments, suggestions, and other input must be received by DNR no later than 5:00 p.m. on March 8, 2019. Please send all submissions by mail or email to:

Joe Joyner
Alaska Department of Natural Resources
550 West 7th Ave. Suite 1070
Anchorage, Alaska, 99501-3577
dnr.easements.regulation@alaska.gov

Written suggestions or other input should identify which regulation or provision of regulation to which their suggestions or other input applies. DNR will consider the submitted information if and when DNR proposes regulatory developments. Any proposed regulatory developments will subsequently be released for public review and comment under the Administrative Procedures Act AS 44.62.

The DNR reserves the right to waive technical defects in this publication. DNR complies with Title II of the Americans with Disabilities Act of 1990. Individuals with disabilities who may need auxiliary aides, services or special modifications to participate in this scoping request may contact the above address, email, or the TDD number (907) 269-8411.

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